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Remarks

Claims 1-15 were pending in the present application, and claims 1-15 were rejected. Claims 3, 14 and 15 have been canceled herein, and claims 1, 4, 5, and 10 have been amended. In addition, new claims 16-18 have been added.

Claim 1 has been amended to include the limitations of claim 3, which has been canceled. Additional support for the present amendments and for new claims 16-18 can be found, *inter alia*, in paragraph [0084] of the present application. No new matter is added by these amendments.

Applicant respectfully requests reconsideration of the pending claims in view of the foregoing amendments and Applicant's comments below, and in view of the Petition under 37 CFR § 1.103 (a) submitted herewith. Applicant notes that the rejection of claim 4 under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 5,421,343 to Feng has not been continued, and this rejection therefore is not addressed below.

Rejection under 35 U.S.C. § 102 (e)

Claims 1-5, 7, 10, 11, 14, and 15 were rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent No. 6,416,471 to Kumar, et al. Claims 3, 14 and 15 have been canceled. Claims 1, 2, 4, 5, 7, 10, and 11 therefore remain rejected on this ground. The Kumar patent, however, does not disclose or suggest a system or method for obtaining an EEG in which amplifier and display variables of an EEG acquisition unit can be controlled by a remote EEG reader as presently claimed.

The system of the Kumar patent is designed to continuously collect data over a period of time from a device connected to a patient (see, e.g., column 4, lines 28-31 and 48-51), in particular in the context of monitoring patients during a clinical trial (see, e.g., column 4, lines 31-33). Kumar teaches that patients will be able to appropriately use the monitoring devices taught in this patent:

"Upon starting a monitoring session, the patient will simply need to check that batteries are inserted correctly in the signal transfer unit 20, that the power on LED is lit, and that there are no warning lights 24 indicating low power, loss of contact with the base station, etc." (column 11, lines 12-16).

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Obtaining an EEG, however, requires the intervention of a skilled technician, in particular to adjust amplifier and/or display variables. In the context of a clinical trial or other non-emergency situation as described in the Kumar patent, a patient can go to a medical center and have an EEG performed by such a skilled technician. In an emergency situation, however, a skilled technician may not be available within the time period necessary to obtain EEG data that can be used in treating a patient. In such situations, waiting for a skilled technician to arrive at a patient's location or otherwise to become available can have dire consequences for the patient, as the time delay may cause a brain injury to worsen and possibly result in irreversible damage to the patient by the time such injury is identified by an EEG.

The present system and methods solve this problem by allowing a skilled technician located remotely from a patient to adjust the amplifier and display variables of an EEG acquisition unit and thereby obtain an appropriate EEG reading. An EEG can be obtained more quickly in this way, as a skilled technician need not travel to the physical location of the patient. The Kumar patent does not disclose or suggest an acquisition unit, system, or method which allows an EEG to be obtained in this way.

With respect to the points raised in the Office Action dated November 15, 2004 regarding claims 1-5 and 7, Applicant respectfully disagrees that the remote monitoring station (50) of the Kumar patent constitutes an acquisition unit as claimed in the present application. An acquisition unit in the present application acquires data in the vicinity of a patient's location, while the monitoring station of Kumar is located remotely with respect to the patient (see, e.g., Figures 5A and 5B).

With respect to claims 10 and 11, Applicant further respectfully points out that the database (110) is not stored in "acquisition unit 30," as stated in the Office Action. As shown in Figure 11, the patient database (110) is in communication with the remote monitoring station (50). Thus, the discussion in the Kumar patent to limiting access to such database refers to access by the remote operators of the Kumar system, and not to operators of an acquisition unit.

While the Kumar system might suffice in non-emergency situations, Kumar does not teach or suggest the features of the presently claimed invention or their advantages in obtaining EEG's in emergency situations. In view of the foregoing, Applicant

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respectfully requests that the rejection of claims 1-5, 7, 10, 11, 14, and 15 under 35 U.S.C. § 102 (e) be withdrawn.

Rejection under 35 U.S.C. § 101 for Double Patenting

The rejection of claims 1-5, 7, 10 and 11 under 35 U.S.C. § 101 over claims 15-22 of U.S. Patent No. 6,510,340 was maintained in the Final Office Action mailed November 11, 2004. As discussed in Applicant's Amendment mailed August 6, 2004, Applicant has submitted a Request for Certificate of Correction in U.S. Patent No. 6,510,340 in order to address this rejection, and the further disposition of this rejection is dependent on action by the Patent and Trademark Office on the Request for Certificate of Correction. In view of this, if the present application is found to be otherwise allowable, Applicant has requested in the Petition under 37 CFR § 1.103 (a) submitted herewith that further action by the Patent and Trademark Office in the present application be suspended either (1) for six months or (2) until the Certificate of Correction submitted by Applicant in U.S. Patent No. 6,510,340 is acted on, whichever period of time is shorter.

Nonstatutory Double Patenting Rejection

Claims 6, 8, 9, 12 and 13 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,510,340 in view of Kumar, et al. For the reasons set forth above, Kumar does not teach or suggest the subject matter of claims 4, 5, 7, 10 or 11. Therefore, Applicant respectfully requests that the rejection under the judicially created doctrine of obviousness-type double patenting of claims 6, 8, 9, 12 and 13, which depend from claims 4, 5, 7, 10 or 11, be withdrawn.

Conclusion

Applicant believes it has adequately addressed the issues raised in the Office Action dated November 15, 2004, and upon grant of the Request for Certificate of Correction in U.S. Patent No. 6,510,340 believes that all pending claims will be allowable. If there remain any issues in this case which can be addressed by telephone,

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the Examiner is encouraged to contact the undersigned at the telephone number listed below.

No fee is believed to be due in connection with the filing of this document. However, if any fees are due, please charge such fees to Deposit Account No. 19-2090.

Respectfully submitted,

SHELDON & MAK PC

Date: January 14, 2005

By:



Michael Fedrick
Reg. No. 36,799

225 South Lake Avenue, 9th Flr.
Pasadena, California 91101
(626) 796-4000